

**Nowakowski, Sonja**

SENATE NATURAL RESOURCES

EXHIBIT NO. 6DATE Jan. 12, '09BILL NO. SB 5

**From:** Holmgren, Jeanne  
**Sent:** Friday, January 09, 2009 4:35 PM  
**To:** Nowakowski, Sonja  
**Cc:** Sexton, Mary; Schultz, Tom (DNR); Stapp, Ethan (DNRC)  
**Subject:** Non Trust Lands assistance by DNRC  
**Attachments:** POLICY FOR DISPOSAL OF NON-TRUST LAND.doc; TRANSFER OF LAND OWNED BY UNIVERSITY SYSTEM.doc

Sonja:

Per Natural Resource Committee request, below is the list of state agencies that we have assisted in the transfer, sale, and exchange of non trust lands.

Department of Military Affairs  
Corrections  
Commerce/Heritage Commission  
Department of Labor and Industry  
Department of Administration  
University System  
Department of Justice  
Department of Public Health and Human Services

This list is nearly all agencies. Department of Fish Wildlife and Parks consults with the Land Board on their land transactions. The Department of Transportation has statutory authority for the acquisition and disposition of their lands.

See attached policies for further clarification.  
Thanks

*Jeanne Holmgren*

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## **POLICY FOR DISPOSAL OF NON-TRUST STATE LAND**

### ***PROCEEDS FROM SALE:***

Mont. Code Ann. Sec 18-6-101(2)

The proceeds from the sale of non-trust state land **MUST** be deposited in the General Fund and cannot be given directly to the Agency, but may be obtained from the General Fund through a request for appropriation.

### ***HISTORY OF DNRC MANDATE TO FACILITATE LAND TRANSFERS:***

Under authority of Mont. Code Ann. 77-1-701 through 707, the 1987 Legislature established DNRC as the central depository for ownership records of non-trust state lands owned by other State Agencies. The department is responsible for establishing and maintaining a filing system for state lands by indexing certain criteria. The Land Board has authority over the disposition of properties and has the ability to approve the sale or transfer of property when it is advantageous to the state, as provided in Mont. Code Ann. 77-1-204(2.) In 1995, the Legislature passed Mont. Code Ann. 77-2-351, which allows the state to transfer non-trust state land to a public entity in return for a commitment that the property will be used to provide a community service or a benefit that fulfills a public purpose. Recognizing the magnitude of work involved in fulfilling this directive and the impact of having the information available to the Agencies, the 2001 Legislature provided funding for a position to coordinate and facilitate those duties.

### ***TRANSFER OF ADMINISTRATIVE AND MANAGEMENT RESPONSIBILITY OF NON-TRUST STATE PROPERTY:***

While Mont. Code Ann. 77-1-202, states that the Land Board is empowered to exercise general authority over care, management and disposal of state lands, in transactions involving administrative and management responsibility, Board consideration and approval is not required. The Board authority and involvement generally applies to disposal and acquisition of state property.

# **TRANSFER OF LAND OWNED BY UNIVERSITY SYSTEM/BOARD OF REGENTS**

## **20-25-307, MCA DISPOSITION OF LAND – UNIVERSITY SYSTEM**

Regents may sell, exchange property

- held or administered by Regents or System, and
- held by state for use, benefit of Regents or System

Regents cannot grant an estate or interest in land

- granted to state in trust for support & benefit of the System

In disposing of any estate or interest in land - Regents

- must obtain consideration that equals or exceeds full market value
- if appraiser determines valuation not complicated & estimates value is less than \$10,000, Regents may use restricted or limited appraisal.

Exchange of land - Regents

- shall give public notice & opportunity to comment
- shall, upon request of any person, hold a public hearing in area where land is located

Sale of land – Regents

- shall prepare request for proposals (RFP) to purchase
- publish public notice once a week, 4 consecutive weeks in newspaper of general circulation in county where land is situated
- Notice must describe:
  - land to be sold
  - appraised value
  - procedure by which persons may obtain proposals
  - terms and conditions of sale
  - criteria upon which each proposal will be evaluated
- Sale procedure must provide
  - reasonable opportunity for members of public to submit proposals
  - Regents may sell only if
    - it determines the sale is in best interests of the System
    - sale must be to offeror whose proposal the Regents determines to be most advantageous to System,
      - taking into consideration price, and
      - other evaluation criteria

Regents may sell or exchange only if THEY first:

- request & obtain written concurrence of Land Board
- provide proof that no restrictions, encumbrances or other conditions are against the land that prevent obtaining full market value,
  - taking into consideration the price & other evaluation criteria
- complies with Montana Environmental Policy Act
- complies with Montana Antiquities Laws (SHPO)

Land Board may refuse to concur if

- sale or exchange doesn't return full market value
- evaluation criteria in RFP's or sale procedure did not provide public with reasonable opportunity to submit proposals or have reasonable proposals selected
- sale or exchange is not in best interest of State
- System has not complied with subsections (6) (a) (ii) through (6) (a) (iv)

After written concurrence of Land Board, Regents

- shall convey land by deed, executed by presiding officer of Regents without covenants of warranty